

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
at Huntington**

**DAWN DENISE McCOMAS,
Executrix of the Estate of
BILLIE PLYMALE,**

Plaintiff,

v.

CIVIL ACTION NO. 3:13-cv-14953

**KIRT THOMAS MILLER, D.P.M.,
Defendant.**

**MOTION TO EXCLUDE THE TESTIMONY OF EXPERT WITNESS
BARRY SINGER, M.D.**

Comes now, Defendant Kirt Thomas Miller, D.P.M. (“Dr. Miller”), by counsel, Tamela J. White, Samantha Thomas-Bush, and Farrell, White & Legg PLLC, and moves this Court to exclude Plaintiff’s expert witness, Barry Singer, M.D. (“Dr. Singer”) from testifying at trial. Dr. Singer does not offer testimony that will assist a trier of fact or that is admissible because, although he is a medical doctor, Dr. Singer lacks any qualification in the podiatric medicine. Exclusion is warranted pursuant to Fed. R. Evid. 702; *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579, 113 S.Ct. 2786 (1993); *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 119 S.Ct. 1167 (1999); W. Va. Code § 55-7B-7(a).

The *Memorandum of Law in Support of the Motion to Exclude the Testimony of Expert Witness Barry Singer, M.D.*, contemporaneously filed, is fully incorporated herein. All exhibits referenced therein are attached hereto and incorporated by reference.

WHEREFORE, for the reasons enumerated and others that may be apparent to the Court, the Defendant moves this Honorable Court to exercise its gatekeeping function and to Exclude the Testimony of Barry Singer, M.D.

Kirt Thomas Miller, D.P.M.,

By counsel,

/s/ Tamela J. White

Tamela J. White (Bar No. 6392 WV)

Samantha Thomas-Bush (Bar No. 11716 WV)

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CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2014, I electronically filed the foregoing
CERTIFICATE OF SERVICE for the **MOTION TO EXCLUDE THE TESTIMONY
PLAINTIFF'S EXPERT WITNESS BARRY SINGER, M.D.** with the Clerk of Court using
the CM/ECF system which will send notification of such filing to the following attorneys of
record: Courtesy copies will be provided to the Court via hand delivery.

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